



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,013	05/30/2006	Jung-Hyun Kee	8079-8 (06-UP-106)	6940
22150 7590 01/09/2009 F. CHAU & ASSOCIATES, LLC 130 WOODBURY ROAD WOODBURY, NY 11797				
EXAMINER				
BAINBRIDGE, ANDREW PHILIP				
ART UNIT		PAPER NUMBER		
3754				
MAIL DATE		DELIVERY MODE		
01/09/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/581,013

Applicant(s)

KEE, JUNG-HYUN

Examiner

ANDREW P. BAINBRIDGE

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/86)
Paper No(s)/Mail Date ____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claim 1 is rejected under 35 U.S.C. 103(a)** as being unpatentable over US 6,526,601 (Hsiao) in view of US 5,226,563 (Coggiola).

4. Hsiao in figures 1-6 discloses a push type dispensing device 10 with a barrel-shaped outer casing 11 open on both ends 12, 42 with a hollow cone shaped nozzle cap 43 that is secured to the lower end of the outer casing 11 (see figure 2-3) with an opening 42 in the center, and an inner casing 30 that is sleeved within the outer casing 11 that contains fluid, and a button 21-22 that is coupled to the upper end of the inner casing 30, 23 which moves the inner casing downwardly when actuated, with an elastic spring 116 that is between the cylinder cap and the nozzle cap that surrounds a pump stem, with a plunger 23 that is connected to the inner casing 30 to push the dispenser to

create dispensing. Hsiao teaches an aerosol can 30 with a nozzle 32, but does not teach a pump connected to a nozzle that actuates as the inner casing is forced downwardly. Coggiola in figure 8 teaches a fluid container 10 with a pump 13 attached to one end that is connected to a valve nozzle 15 that dispenses fluid as the container 10 is actuated by the plunger 33. It would be obvious to one of ordinary skill in the art to substitute the pump and container of Coggiola for the aerosol can of Hsiao to create a device with all of the elements of claim 1 because Coggiola teaches the use of a pump filled with fluid which can only expand the flexibility of usage for the Hsiao device.

5. **Claim 2 is rejected under 35 U.S.C. 103(a)** as being unpatentable over Hsiao in view of Coggiola as applied in claim 1, and further in view of US 2,597,165 (Minturn).

6. Hsiao in view of Coggiola as applied in claim 1 has all of the elements of claim 2 except for a guide groove of a certain length on the inner circumference of the outer casing with a matching protrusion on the button to limit the vertical movement of the button. Minturn in figures 1-8 teaches a set of grooves 18 on the inside of the outer casing 15 of the condiment dispenser 10 and a set of protrusions 24 that seat in the grooves to limit the vertical movement of the inner casing 10. It would be obvious to one of ordinary skill in the art to adapt the Hsiao-Coggiola combination with Minturn because Minturn teaches a simple and well understood to control the actuation distance of the button.

7. **Claims 3-4 are rejected under 35 U.S.C. 103(a)** as being unpatentable over Hsiao in view of Coggiola and Minturn as applied in claim 2, and further in view of US 2,363,474 (Schlesinger).

8. Hsiao in view of Coggiola and Minturn as applied in claim 2 has all of the elements of claims 3-4 except for a stand that includes a seating recess for holding the nozzle cap tightly, a support step to hold a shoulder of the outer casing, and a support piece that touches and supports the outer edge of the standing dispensing device. Schlesinger in figures 1-12 teaches a support stand 38 with a seating recess 34 that can be adapted to hold a nozzle cap tightly (see figure 3) with a support step (see figure 3) to support an outer casing and a support piece 47 that extends upwardly to support a portion of the outer circumference of a dispensing device. It would be obvious to one of ordinary skill in the art to adapt Schlesinger to the Hsiao-Coggiola-Minturn combination because Schlesinger teaches a reliable and well understood way to safely protect the dispenser while it is not in use.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW P. BAINBRIDGE whose telephone number is (571)270-3767. The examiner can normally be reached on Monday to Thursday, 9:30 AM to 8:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. P. B./
Examiner, Art Unit 3754

/Kevin P. Shaver/
Supervisory Patent Examiner, Art
Unit 3754